

JUDGE JONES

08 CV 00936

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

NATURAL RESOURCES DEFENSE  
COUNCIL, INC. and CENTER FOR  
BIOLOGICAL DIVERSITY,

Plaintiffs,

v.

MINERALS MANAGEMENT SERVICE  
and UNITED STATES DEPARTMENT  
OF THE INTERIOR,

Defendants.

Civil Action No.

JAN 28 2008

U.S.D.C.S.D.N.Y.

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

**STATEMENT OF THE CASE**

1. Through this complaint, Plaintiffs Natural Resources Defense Council, Inc. and Center for Biological Diversity (collectively "Plaintiffs") challenge violations of the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, *as amended*, by Defendants Minerals Management Service ("MMS") and the United States Department of the Interior (collectively "Defendants"), for refusing to disclose responsive records regarding Proposed Outer Continental Shelf Lease Sale 193 for the Chukchi Sea Planning Area, currently scheduled for February 6, 2008.

2. The records withheld by Defendants relate to their planning to lease nearly 30 million acres for oil and gas drilling in the Chukchi Sea off Alaska, an important habitat for Arctic species including the polar bear, endangered bowhead whale, gray whale, Pacific walrus, seals, threatened eider, and other marine birds and fish.

3. In connection with the proposed lease sale, MMS prepared draft and final environmental impact statements, as required under the National Environmental Policy Act, 42 U.S.C. § 4332. MMS is refusing to disclose the vast majority of records that provided the basis for MMS's environmental impact analysis and for the notice of sale for Lease Sale 193.

### **JURISDICTION AND VENUE**

4. This Court has jurisdiction over this action, and venue is proper in the District Court for the Southern District of New York, pursuant to 5 U.S.C. § 552(a)(4)(B).

### **PARTIES**

5. Plaintiff Natural Resources Defense Council, Inc. ("NRDC") is a not-for-profit, environmental membership organization with headquarters in New York, New York, and more than 420,000 members nationwide. NRDC's membership and staff of lawyers, scientists, and other environmental specialists have a longstanding interest in protecting the Arctic environment and its associated wildlife, and in insuring proper regulation of outer continental shelf oil and gas development. NRDC has devoted substantial resources to these efforts for more than 30 years.

6. NRDC routinely uses FOIA to obtain information from federal agencies, which NRDC legal and scientific experts analyze in order to inform NRDC members and the public about a variety of issues including the Arctic environment, marine mammals, threatened and endangered species, the health of the oceans, and the environmental consequences of oil and gas development. NRDC regularly conveys important information to its members and the public by way of publications, its web site, press

releases, and public testimony and speeches, as well as by releasing to the public information and documents obtained through FOIA requests.

7. NRDC brings this action on its own behalf and on behalf of its members. NRDC and its members have been and continue to be injured by Defendants' refusal to provide responsive records. The requested relief will redress NRDC's injuries.

8. Plaintiff Center for Biological Diversity ("the Center") is a not-for-profit, conservation organization based in Tucson, Arizona. The Center is actively involved in species and habitat protection issues throughout the United States and the world, including protection of Arctic wildlife in general and the Chukchi Sea in particular. The Center has over 40,000 members throughout the United States and the world.

9. The Center, its members, and staff have a strong interest in the protection of the resources in the Chukchi Sea and the Arctic and in the proper implementation of management decisions affecting those resources. The Center has participated on behalf of its members and staff in numerous decision-making processes affecting Arctic resources, including decision-making processes related to the leasing of areas of the Chukchi Sea for oil and gas development.

10. The Center routinely uses FOIA to obtain information from federal agencies, which Center legal and scientific experts analyze in order to inform Center members and the public about a variety of issues including the Arctic environment, marine mammals, threatened and endangered species, the health of the oceans, and the environmental consequences of oil and gas development. The Center regularly conveys important information to its members and the public by way of publications, its website, press releases, and public testimony and speeches, as well as by releasing to

the public information and documents obtained through FOIA requests.

11. The Center brings this action on its own behalf and on behalf of its members and staff. The Center and its members and staff have been and continue to be injured by Defendants' refusal to provide responsive records. The requested relief will redress the Center's injuries.

12. Defendant MMS is a bureau within Defendant U.S. Department of the Interior. Defendants are both federal agencies within the meaning of FOIA and have possession or control of records that Plaintiffs seek in this action.

### **STATUTORY FRAMEWORK**

13. FOIA requires agencies of the federal government to release, upon request, information to the public, unless one of nine specific statutory exemptions applies. 5 U.S.C. § 552(a)(3)(A).

14. Upon receiving a FOIA request, an agency has 20 working days to respond. 5 U.S.C. § 552(a)(6)(A). If the agency denies the FOIA request, the requester is entitled to appeal the determination within 30 working days of the date of the final response or receipt of any records provided by the agency. 43 C.F.R. § 2.29(a). FOIA requires the agency to make a determination with respect to an appeal within 20 working days. 5 U.S.C. § 552(a)(6)(A)(ii).

15. Although an agency may grant itself an extension in "unusual circumstances" by notifying the requester in writing, FOIA does not permit an agency to delay an initial response or an appeal determination for longer than ten working days. 5 U.S.C. § 552(a)(6)(B). "Unusual circumstances" include the need to search for and collect requested documents from other offices, the need to examine appropriately a

"voluminous amount of separate and distinct records," and the need to consult with another agency. 5 U.S.C. § 552(a)(6)(B)(iii)(I-III); *see also* 43 C.F.R. § 2.13(a).

16. Under FOIA, an agency may withhold from disclosure responsive inter- or intra-agency documents that would not be available by law to a party other than an agency in litigation with the agency. 5 U.S.C. § 552(b)(5) ("FOIA exemption 5"). This exemption is narrowly construed, and the agency bears the burden of establishing its applicability as to each document for which it is claimed.

17. FOIA expressly provides that a requester "shall be deemed to have exhausted his administrative remedies . . . if the agency fails to comply with the applicable time limit provisions" governing its response to a FOIA request or an appeal. 5 U.S.C. § 552(a)(6)(C).

#### **STATEMENT OF FACTS**

18. On August 3, 2007, MMS published a proposed Notice of Sale, tentatively scheduling for February 6, 2008, OCS oil and gas Lease Sale 193 for the Chukchi Sea Planning Area. 72 Fed. Reg. 43294 (Aug. 3, 2007). MMS had previously published notices of availability of draft and final environmental impact statements ("EISs") for proposed Lease Sale 193.

19. By letter dated September 11, 2007, counsel for Earthjustice, on behalf of Plaintiffs and other organizations, filed a FOIA request with MMS, seeking all records that were generated, received, kept, and/or considered by MMS relating to the draft EIS, final EIS, and/or proposed Notice of Sale for Lease Sale 193 (excluding information that is readily available on MMS's website) ("the FOIA request"). The FOIA request is

Exhibit 1 to Plaintiffs' December 7, 2007 FOIA appeal, attached hereto as Exhibit A, and described in paragraph 26 below ("the FOIA appeal").

20. By letter dated September 13, 2007, MMS acknowledged receipt of the FOIA request. That letter is Exhibit 2 to the FOIA appeal, attached hereto as Exhibit A.

21. By letter dated October 10, 2007, MMS notified the requester that it would take a ten-workday extension to respond to the FOIA request. That letter is Exhibit 3 to the FOIA appeal, attached hereto as Exhibit A.

22. By letter dated October 23, 2007, MMS responded to the FOIA request by stating that it would produce responsive documents, but is withholding "approximately 5500 pages" of material. Citing FOIA exemption 5, MMS stated that it is withholding those documents and portions of documents, the majority of which are electronic mail, "because they reflect the personal opinions, recommendations, and advice of staff members, and were used to arrive at a final agency decision. Disclosure of such material would inhibit the open and candid expression of such views in similar future deliberations, could confuse the public as to the official agency position on an issue, and have a detrimental effect on our decision making process." MMS's October 23, 2007 letter is Exhibit 4 to the FOIA appeal, attached hereto as Exhibit A.

23. On October 29, 2007, MMS mailed un-redacted documents totaling under 300 pages of material. Earthjustice received this production on October 31, 2007. This production consists largely of documents already in the public domain; almost two-thirds of the documents produced were publicly available in the Federal Register, in the draft or final EIS for Lease Sale 193, or on MMS's website.

24. Between November 19, 2007 and January 11, 2008, MMS produced five sets of redacted documents in response to the FOIA request. These documents, which total approximately 747 of the thousands of pages of materials MMS claims are subject to FOIA exemption 5, are almost totally redacted. With few exceptions, the documents consist of emails that contain only the names of the sender and recipients, the subject of the email, and the time the email was sent. The remainder of each of these documents is blank, save for a label stating "Exemption 5(b)." The subjects of the redacted emails include such topics as "Areas of Concern for Polar Bears – 193," "Chukchi Sea Beluga Whales," "Sensitive Areas pertaining to Chukchi," "Comments on Chukchi Sea Lease Sale 193 EIS," and "Introductory description of how activities related to the proposed Sale are elevated and how that NEPA analysis may be used in the future." Samples of the redacted emails are included in Exhibits 5A, 5B, 6A, 6B, and 6C to the FOIA appeal, attached hereto as Exhibit A. Upon information and belief, MMS mailed the remaining redacted documents to counsel for Earthjustice on January 25, 2008.

25. Beyond the blanket assertion of exemption in its October 23, 2007 letter, MMS has not provided any further explanation of its redactions for any of the documents it has produced or for its failure to produce in a timely manner the remainder of the responsive records it claims are subject to FOIA exemption 5.

26. On December 7, 2007, counsel for Earthjustice, on behalf of Plaintiffs and Earthjustice, appealed MMS's partial denial of the FOIA request, following all required procedures ("the FOIA appeal"). As detailed in the FOIA appeal, MMS has not met its burden under FOIA to prove the applicability of FOIA exemption 5, and MMS is

improperly applying FOIA exemption 5. The FOIA appeal is attached hereto as Exhibit A.

27. Defendants have not responded to the FOIA appeal.

#### **CLAIM FOR RELIEF**

28. By failing to provide all records responsive to the FOIA request, including by improperly withholding records under FOIA exemption 5, Defendants have violated FOIA's mandate to release agency records to the public. 5 U.S.C. § 552(a)(6).

29. Plaintiffs are entitled to obtain the requested records immediately.

#### **REQUEST FOR RELIEF**

WHEREFORE, Plaintiffs respectfully request that the Court enter judgment providing for the following relief:

- (1) Declare that Defendants have violated FOIA by failing to provide all records responsive to Plaintiffs' September 11, 2007 FOIA request;
- (2) Order Defendants to make all the requested records available to Plaintiffs within 20 days;
- (3) Award Plaintiffs their litigation costs and reasonable attorneys' fees in this action; and
- (4) Grant such other relief as the Court may deem just and proper.



Dated: January 28, 2008  
New York, NY

Respectfully submitted,

A handwritten signature in black ink that reads "Nancy S. Marks". The signature is written in a cursive style with a horizontal line underneath the name.

Nancy S. Marks (NM 3348)  
Mitchell S. Bernard (MB 5823)  
Natural Resources Defense Council, Inc.  
40 West 20th Street  
New York, NY 10011  
Phone: (212) 727-2700  
Fax: (212) 727-1773

## Exhibit A



**EARTHJUSTICE**

BOZEMAN, MONTANA DENVER, COLORADO HONOLULU, HAWAII  
INTERNATIONAL JUNEAU, ALASKA OAKLAND, CALIFORNIA  
SEATTLE, WASHINGTON TALLAHASSEE, FLORIDA WASHINGTON, D.C.

December 7, 2007

VIA FACSIMILE AND FIRST CLASS MAIL

Office of the Solicitor

Attn: FOIA Appeals Office

U.S. Department of the Interior

1849 C Street, N.W., MS-6556

Washington, D.C. 20240

Fax: (202) 208-5206 and (202) 208-6677

**FREEDOM OF INFORMATION ACT APPEAL**

Re: Appeal From The Partial Denial Of A Freedom Of Information Act Request (2007-00318)

Dear Sir or Madam:

Pursuant to the Freedom of Information Act, 5 U.S.C § 552 ("FOIA"), and the United States Department of the Interior FOIA regulations, 43 C.F.R. Part 2, Center for Biological Diversity, Earthjustice, and Natural Resources Defense Council ("appellants") hereby appeal the Minerals Management Service's ("MMS") partial denial of appellants' FOIA request (2007-00318). As required by 43 C.F.R. § 2.30(b), copies of the original FOIA request and MMS's three letters in response are attached hereto. *See* Exs. 1-4.<sup>1</sup>

MMS has asserted that some 5500 pages of material responsive to appellants' FOIA request are exempt from disclosure pursuant to FOIA exemption 5, 5 U.S.C. § 552(b)(5). Ex. 4 at 1. Appellants appeal MMS's refusal to disclose this material on the grounds that (i) MMS has not met its burden of showing that the documents it is withholding are exempt from production pursuant to FOIA and (ii) the withholding is overbroad.

**Correspondence And Production To Date**

Appellants' FOIA request, dated September 11, 2007, sought materials considered by MMS in preparing the draft environmental impact statement ("EIS"), final EIS and proposed

<sup>1</sup> By letter dated September 11, 2007, appellants requested documents relating to the draft and final environmental impact statements and proposed notice of sale for Chukchi Sea Lease Sale 193 from MMS pursuant to FOIA. By letter dated September 13, 2007, MMS acknowledged receipt of the FOIA request. By letter dated October 10, 2007, MMS notified the requestors that it would take a 10-workday extension to respond to the request. By letter dated October 23, 2007, MMS partially denied the FOIA request.

Notice of Sale for Chukchi Sea OCS Lease Sale 193. Ex. 1 at 2. In a letter dated October 23, 2007, MMS responded to the request by stating that it would withhold "approximately 5500 pages" of material pursuant to FOIA exemption 5, 5 U.S.C. § 552(b)(5). Ex. 4 at 1. MMS stated that the material it is withholding is comprised primarily of electronic mail correspondence "used to arrive at a final agency decision" and "reflect[ing] the personal opinions, recommendations, and advice of staff members." Ex. 4 at 1.

On October 29, 2007, MMS produced 18 un-redacted documents totaling approximately 225 pages of material.<sup>2</sup> In subsequent telephone conversations, MMS stated that it would produce redacted versions of the 5500 pages of material it asserts is subject to the FOIA exemption. On November 19, 2007, MMS began producing these documents via email on a rolling basis. As of the date of this letter, we have received approximately 77 documents totaling approximately 200 pages.

The redacted documents MMS has provided to date consist largely of emails which appear to reflect MMS employee comments to various analyses in the EIS. It is impossible to tell what information these emails contain, however, because the agency has redacted the entire text of each email and virtually the entire text of each attachment. Practically the only sections of the documents left un-redacted are the names of the sender and recipients, the subject of the email, and the time the email was sent. MMS has not provided any further explanation of its redactions.

#### MMS Has Not Met Its Burden To Prove The Applicability of Exemption 5

"FOIA imposes on agencies the burden of establishing that withheld materials are exempt from disclosure." Maricopa Audubon Soc'y v. U. S. Forest Serv., 108 F.3d 1082, 1085 (9th Cir. 1997) (citing 5 U.S.C. § 552(a)(4)(B)). Here, MMS asserts that 96 percent – 5500 of approximately 5725 pages – of material responsive to appellants' FOIA request is exempt from production under FOIA. MMS implies, but does not expressly state, that the deliberative process privilege of exemption 5 applies to the material it is withholding. FOIA exemption 5 exempts from production "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." 5 U.S.C. § 552(b)(5). "In order to be protected by the deliberative process privilege...a document must be both 'predecisional' and 'deliberative.'" Assembly of Cal. v U.S. Dep't of Commerce, 968 F.2d 916, 920 (9th Cir. 1992) (citation omitted). MMS has not shown that the materials in this FOIA request satisfy these requirements.

MMS has offered no information in its FOIA response about the role that each of the documents it is withholding may have played in the deliberative process. Instead, it has provided only a blanket assertion that FOIA exemption 5 applies to withheld documents as a

<sup>2</sup> The un-redacted material produced by MMS on October 29 consists largely of documents already in the public domain. Approximately 154 pages consist of correspondence between MMS and the Fish and Wildlife Service and the National Marine Fisheries Service that was included in the draft or final EIS for Lease Sale 193 and 30 pages consist of copies of Federal Register notices.

whole. Its only explanation of why the exemption applies is the a statement that the documents "reflect the personal opinions, recommendations, and advice of staff members, and were used to arrive at a final agency decision" and that disclosure of the material "would inhibit the open and candid expression" of agency employees' views in future deliberations, could "confuse the public as to the official agency position on an issue," and could have a detrimental effect on the agency's decision making process. Ex. 4 at 1. Nor does MMS's production to date demonstrate why the material is subject to the deliberative process privilege. MMS has simply produced virtually blank documents without further explanation. See, e.g., Ex. 5a (email from one MMS employee, Michael Salyer, to another, James Wilder, with the subject line "Hope it helps" followed by eight blank pages of redacted material); 5b (email attaching memorandum entitled "Comments on Chukchi Sea Lease Sale 193 EIS" from which all text except numbers and the heading "Typographical errors" has been removed). The only information contained in the produced documents is the name of the sender, name of recipients, time sent, and subject of the message. MMS's blanket assertion of privilege and production of heavily redacted documents is clearly inadequate to prove the withheld material is exempt from production. See Coastal States Gas Corp. v. Dep't of Energy, 617 F.2d 854, 861 (D.C. Cir. 1980) (holding an agency's disclosure of "who wrote the [document], to whom it was addressed, its date, and a brief description" and an affidavit "repeat[ing] in conclusory terms that all the documents fall within one or another of the exemptions" was "patently inadequate" to establish exemption under FOIA); Greenpeace v. Nat'l Marine Fisheries Serv., 198 F.R.D. 540, 543 (W.D. Wash. 2000) ("Blanket assertions of the privilege are insufficient. ... Rather, the agency must provide 'precise and certain' reasons for preserving the confidentiality of designated material.") (citations omitted).

#### MMS Is Improperly Applying Exemption 5

The FOIA "is broadly conceived. It seeks to permit access to official information long shielded unnecessarily from public view and attempts to create a judicially enforceable public right to secure such information from possibly unwilling official hands." EPA v. Mink, 410 U.S. 73, 80 (1973). Thus, "virtually every document generated by an agency is available to the public in one form or another, unless it falls within one of the Act's nine exemptions." Nat'l Labor Relations Bd. v. Sears, Roebuck & Co., 421 U.S. 132, 136 (1975); see also Maricopa Audubon Soc'y, 108 F.3d at 1085 ("When a request is made, an agency may withhold a document, or portions thereof, only if the material at issue falls within one of the nine statutory exemptions found in § 552(b)."). The exemptions, however, "do not obscure the basic policy that disclosure, not secrecy, is the dominant objective of the Act; consistent with the Act's goal of broad disclosure, these exemptions have been consistently given a narrow compass." Dep't of the Interior v. Klamath Water Users Protective Ass'n, 532 U.S. 1, 8 (2001) (internal citations and punctuation omitted); see also Mink, 410 U.S. at 88 ("Congress ... expressly intended 'to delimit the exception (5) as narrowly as consistent with efficient Government operations'" (citing S. Rep. No. 813, p. 9); Carter v. U. S. Dep't of Commerce, 307 F.3d 1084, 1088 (9th Cir. 2002).

"The purpose of the deliberative process privilege 'is to prevent injury to the quality of agency decisions' by ensuring that the 'frank discussion of legal or policy matters' in writing,

within the agency, is not inhibited by public disclosure.” Maricopa Audubon Soc’y v. U. S. Forest Serv., 108 F.3d 1089, 1092 (9th Cir. 1997) (quoting Sears, Roebuck, 421 U.S. at 150-51). The privilege is “centrally concerned with protecting the process by which policy is formulated.” Petroleum Info. Corp. v. U. S. Dep’t of the Interior, 976 F.2d 1429, 1435 (D.C. Cir. 1992) (emphasis in original). “[C]ommunications containing purely factual material are not typically within the purview of Exemption 5,” Julian v. U. S. Dep’t of Justice, 806 F.2d 1411, 1419 (9th Cir. 1986), aff’d, 486 U.S. 1 (1988), and the FOIA “favor[s] disclosure of factual documents, or the factual portions of deliberative documents where such a separation is feasible,” Assembly of California, 968 F.2d at 921. Accordingly,

factual material is protected only to the extent it reflects an agency’s preliminary positions or ruminations about how to exercise discretion on some policy matter. Conversely, when materials could not reasonably be said to reveal an agency’s or official’s mode of formulating or exercising policy-implicating judgment, the deliberative process privilege is inapplicable. As such, information that does not disclose the deliberative process, communications unrelated to the formulation of law or policy, and routine reports are not shielded by the privilege.

Greenpeace, 198 F.R.D. at 543 (internal citations and punctuation omitted); see also Nat’l Wildlife Fed’n v. U. S. Forest Serv., 861 F.2d 1114, 1119, 1121-22 (9th Cir. 1988) (stating that factual materials are exempt from disclosure only “to the extent that they reveal the mental processes of decisionmakers” and holding that only those narrow portions of a draft EIS that contained discussion of an agency’s discretionary policy judgment could be withheld under the exemption).

Although it is impossible to glean very much from the redacted documents provided to date by MMS, it seems likely that they contain factual discussions of the potential environmental impacts of the lease sale and references to the scientific analyses conducted in the draft and final EIS. See, e.g., Ex. 6a (email from MMS wildlife biologist with the subject line “RE: Sensitive Areas pertaining to Chukchi”); 6b (email among MMS employees with the subject line “RE: Areas of Concern for Polar Bears-193”); 6c (email to MMS employee with the subject line “RE: Chukchi Sea Beluga Whales”). These sorts of comments relate directly to the agency obligation under the National Environmental Policy Act (“NEPA”) to assess the environmental impacts of the lease sale. They do not appear to disclose any legal or policy-level determination about what actions to take in the Chukchi Sea.

The preparation of an EIS involves significant fact gathering and analysis. Indeed, the “twin aims” of NEPA are primarily informational; it requires the agency “to consider every significant aspect of the environmental impact of a proposed action” and to “ensure[] that the agency will inform the public that it has indeed considered environmental concerns in its decisionmaking process.” Baltimore Gas & Elec. Co. v. Natural Res. Def. Council, 462 U.S. 87, 97 (1983) (internal citations and punctuation omitted). The EIS is the tool by which the agency accomplishes those goals. Accordingly, the document constitutes a compilation of factual information about the area in which the activity is proposed and the potential impacts

of the action and alternatives. Thus, the analysis of environmental impacts in an EIS is not a legal or policy determination. Rather, it represents the fulfillment of the agency's mandatory duty to consider the environmental ramifications of its policy choice among alternative courses of action. Comments regarding the methods or scope of analysis conducted in the EIS, the potential environmental impacts of the various alternatives, and descriptions of the affected environment and its ecological or subsistence values represent discussions of the agency's nondiscretionary and non-deliberative obligation under NEPA to evaluate the environmental impacts of its actions. See Nat'l Wildlife Fed'n, 861 F.2d at 1121-22; Cf. Greenpeace, 198 F.R.D. at 544-45 (finding that documents related to a biological opinion prepared by National Marine Fisheries Service pursuant to the Endangered Species Act were not protected by the deliberative process privilege; noting "that the deliberative process privilege is limited to protecting only those agency processes by which policy is formulated") (emphasis in original); Carter, 307 F.3d at 1091 (holding that FOIA exemption 5 did not shield the Department of Commerce from releasing Census data that adjusted for systemic undercounts, where the agency decision was whether adjusted or unadjusted Census data best reflected reality, and the data did not disclose information about the process underlying that policy-decision); Assembly of California, 968 F.2d at 922 (same, 1990 Census data).

Moreover, the documents are not protected by the deliberative process privilege simply by virtue of the fact that they are expert interpretations of the facts contained in the draft and final EIS. "In order to be protected, expressions of expert opinion and professional judgment must relate to the exercise of policy-oriented judgment." Greenpeace, 198 F.R.D. at 544. Statements regarding factual determinations, even if made by experts, are not protected by the deliberative process privilege. See id.; Seafirst Corp. v. Jenkins, 644 F. Supp. 1160, 1163 (W.D. Wash. 1986) ("[R]eliance on expertise does not transform interpretations of facts into communications protected by the deliberative process privilege.").

Further, MMS's blanket withholding of documents underlying the EIS is inconsistent with what it has done in the past. Documents of the type at issue here have been included in the administrative record of other outer continental shelf leasing and exploration decisions. See, e.g., Ex. 7 (Shell Exploration Plan Administrative Record Index, Decision File, Docket 07-71457 (9th Cir.)). Indeed, MMS's withholding of the documents here appears designed to prevent full public knowledge of concerns and issues raised by agency experts.

Finally, to the extent that any of the materials might be subject to the deliberative process privilege, FOIA requires the agency to segregate the non-deliberative portions of those documents and provide them. FOIA provides explicitly that:

[a]ny reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection. The amount of information deleted shall be indicated on the released portion of the record, unless including that indication would harm an interest protected by the exemption in this subsection under which the



deletion is made. If technically feasible, the amount of the information deleted shall be indicated at the place in the record where such deletion is made.

5 U.S.C. § 552(b); see also Mapother v. Dep't of Justice, 3 F.3d 1533, 1539-40 (D.C. Cir. 1993) (ordering release of portions of a report because they were "reasonably segregable"); Julian, 806 F.2d at 1417 (same). MMS has made no effort to identify non-deliberative portions of the withheld materials. To the extent that any of the documents contain such information, it must be provided.

#### Conclusion

MMS has not shown that the withheld materials are exempt from production under FOIA. The agency has simply made a blanket assertion that almost all of the material responsive to appellants' FOIA request is exempt from production pursuant to FOIA. It has implied, but not expressly stated, that the material qualifies under exemption 5 because it would be subject to the deliberative process privilege in civil litigation. This exemption is very narrow, applying only to documents disclosing an agency's legal or policy deliberation, and MMS has made no showing that the exemption could cover the documents which it has declined to disclose.

To the extent that the deliberative process privilege might apply to some of the documents, or portions thereof, MMS must provide more information about the assertion of privilege and must segregate and provide any non-deliberative portions of those documents.

Thank you for your consideration of this appeal.

Sincerely,

Clayton Jernigan  
Clayton Jernigan  
Associate Attorney  
EARTHJUSTICE  
Phone: (907) 586-2751  
Fax: (907) 463-5891  
Email: cjernigan@earthjustice.org





EARTHJUSTICE

BOZEMAN, MONTANA DENVER, COLORADO HONOLULU, HAWAII  
INTERNATIONAL JUNEAU, ALASKA OAKLAND, CALIFORNIA  
SEATTLE, WASHINGTON TALLAHASSEE, FLORIDA WASHINGTON, D.C.

September 11, 2007

VIA EMAIL AND FIRST CLASS MAIL

Ginny Morgan  
Minerals Management Service  
Headquarters  
MS:2200  
381 Elden Street  
Herndon, VA 20170-4817  
Fax: 703-787-1207 or 703-787-1922  
[ginny.morgan@mms.gov](mailto:ginny.morgan@mms.gov)

Christine Huffaker  
Minerals Management Service  
Alaska OCS Region  
MS:8001  
3801 Centerpoint Drive, Suite 500  
Anchorage, AK 99503  
Fax: 907-334-5202  
[christine.huffaker@mms.gov](mailto:christine.huffaker@mms.gov)

**Re: Freedom of Information Act Request Regarding OCS Lease Sale 193 in the  
Chukchi Sea Planning Area.**

Dear Ms. Morgan and Ms. Huffaker:

On behalf of Audubon Alaska, Center for Biological Diversity, Earthjustice, Natural Resources Defense Council, Pacific Environment, and The Wilderness Society (together, the requestors), we submit this request for records pursuant to Freedom of Information Act, 5 U.S.C. § 552 (FOIA).

On June 15, 2007, the Minerals Management Service (MMS) published a notice of availability of a Final Environmental Impact Statement (EIS) for Proposed OCS Lease Sale 193 for the Chukchi Sea Planning Area (OCS EIS/EA, MMS 2007-026) (May 2007). 72 Fed. Reg. 33222 (June 15, 2007). On August 3, 2007, MMS published a proposed Notice of Sale, tentatively scheduling OCS oil and gas Lease Sale 193 for February 6, 2008. 72 Fed. Reg. 43294 (Aug. 3, 2007). The agency had previously published a notice of availability of a draft EIS for Proposed OCS Lease Sale 193 for the Chukchi Sea Planning Area (OCS EIS/EA, MMS 2006-060).

**Exhibit 1, Page 1 of 4**

325 FOURTH STREET, JUNEAU, AK 99801  
T: 907.586.2751 F: 907.463.5891 E: [eajusak@earthjustice.org](mailto:eajusak@earthjustice.org) W: [www.earthjustice.org](http://www.earthjustice.org)

We request copies of all memoranda, studies, reports, data, correspondence, comments, conversation records, files, electronic mail records, or other documents, which were generated, received, kept and/or considered by MMS relating to the draft EIS, final EIS and/or proposed Notice of Sale for Lease Sale 193. This request does not include copies of the draft EIS, final EIS, proposed Notice of Sale, or any other information that is readily available on MMS's website.

We also request a waiver of any fees associated with this request. Under FOIA, "[d]ocuments shall be furnished without any charge . . . if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii). In addition to this statutory direction, the Department of Interior has issued regulations outlining four factors that it will consider in deciding whether a fee waiver is warranted: (1) how the request concerns the operations or activities of government; (2) how the disclosure will likely contribute to public understanding of government operations or activities; (3) that the disclosure will contribute significantly to the public understanding; and (4) that the disclosure is not primarily in the requesters' commercial interest. *See* 43 C.F.R. Pt. 2, App. D(b). The information provided below shows that the requestors meet all above criteria and, therefore, are entitled to a full fee waiver.

1. The request concerns the operations of government.

This FOIA request seeks information relevant to MMS's management of public resources on the Outer Continental Shelf (OCS) of the Arctic Ocean. The Chukchi Sea provides essential habitat to a host of marine species, including bowhead whale, gray whale, Pacific walrus, polar bear, seals, and various species of fish. Under the National Environmental Policy Act, the Endangered Species Act, the Marine Mammal Protection Act, and the Outer Continental Shelf Lands Act, MMS is required to consider various documents – documents that are the subject of the instant FOIA request – in assessing the impacts of the proposed lease sale on these species, their habitats, and the ecosystem as a whole. Accordingly, the FOIA request directly concerns the operations and activities of the government in managing public resources in the Arctic.

2. The disclosure will likely contribute to public understanding of government operations or activities.

There is a clear connection between the requested records and the requestors' interest in and desire to inform the public about MMS's management activities in the Arctic. While a few of the documents, such as the draft EIS, final EIS and proposed Notice of Sale, are available to the public, the supporting documents requested by the requestors are not. These records will inform the public about the analyses and conclusions underlying the agency's decision, provide insight into the agency's decision-making processes, and potentially highlight competing views that exist within the agency. They will enable the requestors to evaluate the agency's analyses and compliance with applicable laws and regulations. Accordingly, the requested documents are critical for a meaningful assessment of the agency's actions and necessary for thorough public understanding of the government's operations and activities in the Chukchi Sea.

3. The disclosure will contribute significantly to the public understanding.

Disclosure of these records will further the understanding of the public at large and is likely to be of interest to a broad audience. The requestors are public-interest organizations, whose core missions involve protecting the environment, public resources, and human health by, among other mechanisms, monitoring government management of public lands, encouraging public participation in government processes, and ensuring enforcement of applicable public laws. The requested documents will undergo scientific and legal scrutiny by the requestors and these analyses will form the foundation for developing issue campaigns and considering legal actions, as appropriate. They will also further the requestors' and their members' understanding of the governmental process and will be used as a basis for continued participation in the management of the OCS in Alaska. Access to these documents will help the public evaluate the proposed oil and gas activities and their impacts on the sensitive Arctic environment.

The requestors possess the experience and expertise necessary to evaluate the requested information and provide it to the public in a useful form. *Cf. W. Watersheds Proj. v. Brown*, 318 F. Supp. 2d 1036, 1040 (D. Idaho 2004). The requestors are highly qualified to extract, synthesize, analyze, and convey the requested information to their members, other organizations, and the public at large in a way that will significantly increase their understanding of government's actions affecting public resources in Alaska. The requestors' staffs include scientists, lawyers, and professionals who specialize in public outreach. The requestors use that expertise to analyze and evaluate information about governmental decisions affecting public resources, such as the management of the OCS, and provide their analyses and evaluations to members and the general public.

Moreover, the requestors have been involved in the various public processes involving the Alaska OCS. The requestors have submitted extensive comments on, for example, the last two 5-year leasing programs, the final EIS for the Oil and Gas Leases 186, 195, and 202 in the Beaufort Sea, the EA for Lease Sale 195, as well as the draft EIS and final EIS for Lease Sale 193. The requestors also commented on the draft Programmatic EA for 2006 seismic surveys in Beaufort and Chukchi seas, the draft Programmatic EIS for seismic surveys in the Beaufort and Chukchi Seas, as well as on the proposed Incidental Harassment Authorizations for incidental takes of marine mammals during seismic activities in 2006 and 2007.

The requestors have a long history of evaluating information similar to that requested here, and disseminating it to help inform the public and encourage participation in future planning processes. The requestors will disseminate the information through various means, including direct-mail letters, newsletters, reports, magazine articles, electronic action alerts, the organizations' web sites, and through other formal and informal communications. This type of public dissemination is sufficient to warrant a fee waiver. *See W. Watersheds Proj.*, 318 F. Supp. 2d at 1041 (finding "statements of intent to disseminate requested information through newsletters, popular news outlets, and presentations to public interest requestors, government agencies, and the general public sufficient to entitle an organization to a fee waiver") (citations omitted).

The requested documents are critical for an informed assessment of MMS's compliance with the law. The documents sought in this request have not been available to the public. As discussed above, the records will inform the public about the conclusions underlying the agency's decisions to authorize oil and gas lease sales in the Chukchi Sea. To facilitate public participation in the management of public resources in this region, MMS should make these documents available to the public pursuant to FOIA at no cost. *See* 40 C.F.R. § 1506.6(f); *cf. Friends of the Coast Fork v. United States Dep't of the Interior*, 110 F.3d 53, 55 (9th Cir. 1997) (stating that the expressed intent to "challenge publicly the scientific basis for the western pond turtle listing denial . . . suffices as a prima facie showing that disclosure to Friends and ONRC is 'likely to contribute significantly to public understanding.'").

4. The requestors have no commercial interest in the disclosure of the information.

The requestors are nonprofit organizations that have absolutely no commercial interest in the requested records. The materials discussed above, including the requestors' publications, websites, comments, and newsletters, are freely available to the public at no cost.

If you have any questions regarding the scope of this request, please do not hesitate to contact me at (907) 586-2751.

Thank you for your time and attention to this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Clayton Jernigan", with a long horizontal flourish extending to the right.

Clayton Jernigan  
Attorney  
EARTHJUSTICE



## United States Department of the Interior

MINERALS MANAGEMENT SERVICE  
Alaska Outer Continental Shelf Region  
3801 Centerpoint Drive, Suite 500  
Anchorage, Alaska 99503-5823



RECEIVED  
SEP 17 2007  
EARTHJUSTICE

Clayton Jemigan  
Attorney  
Earthjustice  
325 Fourth Street  
Juneau, Alaska 99801

September 13, 2007

REF: MMS-2007-00318

Dear Mr. Jemigan:

The Minerals Management Service, Alaska OCS Region received your FOIA request dated September 11, 2007 on September 12, 2007 and assigned it Request No. MMS-2007-00318. Please reference this number on correspondence concerning your request. We will advise you of the status of our response within 20 workdays if we anticipate a delay. Unusual circumstances may warrant an additional 10-workday extension.

If you have any questions, feel free to contact me at 907-334-5207.

Sincerely,

Christine R. Huffaker  
FOIA Officer  
MMS Alaska OCS Region





## United States Department of the Interior

MINERALS MANAGEMENT SERVICE  
Alaska Outer Continental Shelf Region  
3801 Centerpoint Drive, Suite 500  
Anchorage, Alaska 99503-5823



Clayton Jernigan  
Attorney  
Earthjustice  
325 Fourth Street  
Juneau, Alaska 99801

RECEIVED  
OCT 15 2007  
EARTHJUSTICE

October 10, 2007

Dear Mr. Jernigan:

This acknowledges your Freedom of Information Act request, MMS-2007-00318, dated September 11, 2007 and received in our office on September 12, 2007.

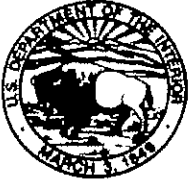
Due to the need to search for, collect, and examine a voluminous amount of records, we are taking a 10-workday extension under the Department of the Interior's FOIA regulations (43 CFR 2.13(a)) in order to process your request.

We will send a final reply to you on or before October 24, 2007. If you have any questions concerning your request, please contact me at (907) 334-5207 or email at [Christine.Huffaker@mms.gov](mailto:Christine.Huffaker@mms.gov).

Sincerely,

Christine R. Huffaker  
FOIA Specialist  
Alaska OCS Region





## United States Department of the Interior

MINERALS MANAGEMENT SERVICE  
Alaska Outer Continental Shelf Region  
3801 Centerpoint Drive, Suite 500  
Anchorage, Alaska 99503-5823



Clayton Jernigan  
Earthjustice  
325 Fourth Street  
Juneau, Alaska 99801

RECEIVED  
OCT 25 2007  
EARTHJUSTICE

October 23, 2007

Dear Mr. Jernigan:

This responds to your Freedom of Information Act (FOIA) request dated September 11, 2007, in which you requested copies of documents relating to the draft Environmental Impact Statement, final Environmental Impact Statement, and proposed Notice of Sale for Alaska OCS Lease Sale 193. Documents responsive to your request have been located and are being sent to you under separate cover with the following exceptions:

Documents and portions of documents, the majority of which are electronic mail, are being withheld, approximately 5500 pages, because they reflect the personal opinions, recommendations, and advice of staff members, and were used to arrive at a final agency decision. Disclosure of such material would inhibit the open and candid expression of such views in similar future deliberations, could confuse the public as to the official agency position on an issue, and have a detrimental effect on our decision making process. Therefore, we are withholding the materials pursuant to exemption 5 of the FOIA (5 U.S.C. 552(b)(5)), which permits an agency to withhold interagency or intra-agency documents which would not be available by law to a party in litigation with the agency.

The person responsible for this partial denial is myself and was made in consultation with Richard McNeer, Attorney, Office of the Solicitor. In accordance with 43 CFR 2.28(a)(1), you may appeal this partial denial by writing to:

Officer of the Solicitor  
Attn: FOIA Appeals Office  
U.S. Department of the Interior  
1849 C Street, N. W., MS-6556  
Washington, D.C. 20240

Your appeal must be in writing and received no later than 30 workdays after the date of this letter or 30 workdays after the records have been made available. A copy of your original request and this denial letter should accompany the appeal as well as a brief statement of the reasons why you believe this initial decision to be in error. The appeal should be marked "FREEDOM OF INFORMATION APPEAL" both on the envelope and the face of the letter.

Your fee waiver has been granted.

If you have any questions, please call me at 907-334-5207.

Christine R. Huffaker

FOIA Officer  
MMS Alaska OCS Region

TAKE PRIDE  
IN AMERICA

Exhibit 4, Page 1 of 1



**Huffaker, Christine**

---

**From:** Salyer, Michael  
**Sent:** Thursday, August 24, 2006 4:21 PM  
**To:** Wilder, James  
**Subject:** Hope it helps

Exemption 5(b)



Exemption 5(b)

Exemption 5(b)

Exemption 5(b)

Exemption 5(b)

Exemption 5(b)

**Cranswick, Deborah**

---

**From:** srieche1@comcast.net  
**Sent:** Thursday, September 21, 2006 1:04 PM  
**To:** Luton, Harry H  
**Cc:** King, Fred; Cranswick, Deborah  
**Subject:** Re: FW: Introductory description of how activities related to the proposed Sale are elevated and how that NEPA analysis may be used in the future.  
**Attachments:** Comments on Chukchi Sale 193 EIS.doc

Harry, Fred, and Debbie,

**Exemption 5(b)**

Silvia

**Exemption 5(b)**

This transmittal is confidential and intended only for the recipients identified above. It may be privileged subject to attorney/client, attorney work product, or deliberative process privileges.

----- Original message -----

**From:** "Luton, Harry H" <Harry.Luton@mms.gov>  
**Silvia.**

**Exemption 5(b)**

Harry

---

**From:** King, Fred  
**Sent:** Thursday, September 21, 2006 2:58 PM  
**To:** Coll, John; Luton, Harry H; Bennett, James F  
**Subject:** Introductory description of how activities related to the proposed Sale are elevated and how

9/20/2007

Exhibit 5B, Page 1 of 10

that NEPA analysis may be used in the future.

Harry

Exemption 5(b)

Fred

---

**From:** Cranswick, Deborah  
**Sent:** Thursday, September 21, 2006 10:50 AM  
**To:** King, Fred  
**Subject:** how's this?

Exemption 5(b)

**Memorandum**

To: Harry Luton  
From: Silvia Murphy  
Date: September 21, 2006  
Subject: Comments on Chukchi Sea Lease Sale 193 EIS

1.

Exemption 5(b)

2.

3.

4.

5.

6.



7.

8.

**Exemption 5(b)**

9.

10

11

12.

13.

14.

15.

16.

17.

Exemption 5(b)

18.

19.

20.

21.

22.

23.

Typographical errors:

Exemption 5(b)

Exemption 5(b)

### Exemption 5(b)

1.

2.

### Exemption 5(b)

3.

4.

5.

6.

7.

8.

9.  
10.  
11.  
12.  
13.  
14.

Exemption 5(b)

15.

16.

17.

18.

19.

20.

21.

22.

23.

24.

25.

26.

27.

28.

29.

30.

31.

32.  
33.

34.

Exemption 5(b)

35.

36.

37.

38.

39.

40.

41.

42.

43.

44.

45.

46.

47.

48.

49.

50.

51.

52.  
53.  
54.  
55.  
56.

57.

Exemption 5(b)

58.  
59.  
60.  
61.  
62.  
63.  
64.  
65.

66.  
67.

68.  
69.

70.

71.

**Exemption 5(b)**

**Salyer, Michael**

---

**From:** Smith, Caryn  
**Sent:** Wednesday, August 23, 2006 10:11 AM  
**To:** Salyer, Michael  
**Subject:** RE: Sensitive Areas pertaining to Chukchi

Exemption 5(b)

---

**From:** Newbury, Thomas  
**Sent:** Wednesday, August 23, 2006 9:15 AM  
**To:** Salyer, Michael  
**Cc:** Wilder, James; Smith, Caryn  
**Subject:** RE: Sensitive Areas pertaining to Chukchi

Exemption 5(b)

---

**From:** Salyer, Michael  
**Sent:** Wednesday, August 23, 2006 7:40 AM  
**To:** Schroeder, Mark; Wilder, James; Newbury, Thomas  
**Subject:** Sensitive Areas pertaining to Chukchi

Exemption 5(b)

(1)  
(2)  
(3)  
(4)  
(5)  
(6)  
(7)  
(8)  
(9)  
(10)  
(11)

Exemption 5(b)



(12)



**Michael R. Salyer**  
**EIS Coordinator/Wildlife Biologist**  
**Minerals Management Service**  
**3801 Centerpoint Dr. Suite 500**  
**Anchorage, AK 99503**  
**907-334-5261**

**Salyer, Michael**

---

**From:** Wilder, James  
**Sent:** Wednesday, August 23, 2006 9:47 AM  
**To:** Cranswick, Deborah; King, Fred  
**Cc:** Salyer, Michael; Burwell, Michael  
**Subject:** RE: Areas of Concern for Polar Bears-193

Exemption 5(b)

---

**From:** Cranswick, Deborah  
**Sent:** Wednesday, August 23, 2006 7:38 AM  
**To:** King, Fred; Wilder, James  
**Cc:** Salyer, Michael  
**Subject:** RE: Areas of Concern for Polar Bears-193

Exemption 5(b)

---

**From:** King, Fred  
**Sent:** Wednesday, August 23, 2006 7:27 AM  
**To:** Cranswick, Deborah; Wilder, James  
**Cc:** Salyer, Michael  
**Subject:** RE: Areas of Concern for Polar Bears-193

Exemption 5(b)

Fred

---

**From:** Cranswick, Deborah  
**Sent:** Tuesday, August 22, 2006 4:51 PM  
**To:** Wilder, James  
**Cc:** King, Fred; Salyer, Michael  
**Subject:** RE: Areas of Concern for Polar Bears-193

Jim,

Exemption 5(b)

Exemption 5(b)

---

**From:** Wilder, James  
**Sent:** Tuesday, August 22, 2006 4:19 PM  
**To:** Salyer, Michael  
**Cc:** King, Fred; Cranswick, Deborah  
**Subject:** Areas of Concern for Polar Bears-193

Exemption 5(b)

Message

Page 1 of 3

**Huffaker, Christine**

---

**From:** frostlow [frostlow@ptlalaska.net]  
**Sent:** Tuesday, September 12, 2006 5:01 PM  
**To:** Wilder, James  
**Subject:** RE: Chukchi Sea Beluga Whales

Jim - sorry it took a bit of time to get back to you.

1)

Exemption 5(b)

2)

Exemption 5(b)

3)

Exemption 5(b)

4)

Exemption 5(b)

5)

Exemption 5(b)

9/26/2007

Exhibit 6C, Page 1 of 3

Message

Page 2 of 3

6)

Exemption 5(b)

Kathy

Kathy Frost  
73-4388 Pa'iaha Street  
Kailua-Kona, HI 96740-9311  
(808) 325-6885

-----Original Message-----

**From:** Wilder, James [mailto:James.Wilder2@mms.gov]  
**Sent:** Friday, September 01, 2006 5:38 AM  
**To:** frostlow@ptialaska.net  
**Subject:** Chukchi Sea Beluga Whales

Hi Kathy,

Exemption 5(b)

9/26/2007

Exhibit 6C, Page 2 of 3

Message

Page 3 of 3



Respectfully, jw

James Wilder  
Wildlife Biologist  
U.S. Department of the Interior  
Minerals Management Service  
AK Outer Continental Shelf Region  
Environmental Assessment Section  
3801 Centerpoint Drive, Suite 500  
Anchorage, Alaska 99503-5823  
Tel: (907) 334-5264  
Fax: (907) 334-5242  
Web Site: [www.mms.gov/alaska](http://www.mms.gov/alaska)

9/26/2007

Exhibit 6C, Page 3 of 3

**SHELL EXPLORATION PLAN ADMINISTRATIVE RECORD****Decision File****Docket 07-71457**

Line	File #	Date	Description
1	1	02/00/03	Beaufort Sea Planning Area Oil and Gas Lease Sales 186,195, and 202 Final Environmental Impact Statement OCS/EIS/EA MMS 2003-001
2	1599	07/00/04	Environmental Assessment Proposed Oil and Gas Lease Sale 195 Beaufort Sea Planning Area OCS EIS/EA MMS 2004-028
3	1924	07/22/05	Oil and Gas Lease OCS-Y-01743
4	1933	07/28/05	Oil and Gas Lease OCS-Y-01805
5	1942	07/28/05	Oil and Gas Lease OCS-Y-01807
6	1951	07/28/05	Oil and Gas Lease OCS-Y-01808
7	1960	07/28/05	Oil and Gas Lease OCS-Y-01809
8	1969	07/28/05	Oil and Gas Lease OCS-Y-01817
9	1978	07/28/05	Oil and Gas Lease OCS-Y-01828
10	1987	07/28/05	Oil and Gas Lease OCS-Y-01834
11	1998	07/28/05	Oil and Gas Lease OCS-Y-01841
12	2006	07/28/05	Oil and Gas Lease OCS-Y-01842
13	2015	05/27/05	Oil and Gas Lease OCS-Y-01845
14	2024	05/27/05	Oil and Gas Lease OCS-Y-01849
15	2033	03/00/06	Biological Evaluation of Steller's Eider ( <i>Polysticta stelleri</i> ), Spectacled Eider ( <i>Somateria fischeri</i> ), and Kittlitz's Murrelet ( <i>Brachyramphus brevirostris</i> ) for Seismic Surveys in the Northeast Chukchi Sea and Western Beaufort Sea Planning Areas
16	2077	03/00/06	Biological Evaluation of the Potential Effects of Oil & Gas Leasing and Exploration in the Alaska OCS Beaufort Sea and Chukchi Sea Planning Areas on Endangered Bowhead Whales ( <i>Balaena mysticetus</i> ), Fin Whales ( <i>Balaenoptera physalus</i> ), and Humpback Whales ( <i>Megaptera novaeangliae</i> )
17	2368	03/09/06	Email from Jeffrey Walker to Joseph Mullin & Elmer Danenberger Shell '07 Exploration Program and dispersants
18	2369	03/09/06	Email from Jeffrey Walker to Christy Bohl, Douglas Choromanski, Kathleen Crumrine, et al. Meeting with ADEC on Shell '06 & '07 activities.
19	2370	03/10/06	Email from Joseph Mullin to Jeffrey Walker, Elmer Danenberger, Robert LaBelle: RE: Shell '07 exploration program and dispersants
20	2377	03/20/06	Email from Jeffrey to Rick Fox: Oil spill response planning.
21	2378	04/17/06	Email from Monkeliien, Kyle to Walker, Jeffrey. RE: Two things on FWS and bird mitigation measures. (email string)
22	2380	04/25/06	Email from Walker Jeffrey to Satterlee, Kent. FW: Shell Question on Worst Case Spill Volumes. (email string)
23	2382	05/18/06	Email from Bohl, Christy to Walker, Jeffrey. RE: Dispersant pre-approval. (email string)
24	2384	06/00/06	Final Programmatic Environmental Assessment: Arctic Ocean Outer Continental Shelf Seismic Surveys - 2006 OCS EIS/EA MMS 2006-038

**SHELL EXPLORATION PLAN ADMINISTRATIVE RECORD****Decision File****Docket 07-71457**

Case #	Page #	Date	Subject
25	2799	06/16/06	Letter from Robert D. Mecum, Acting Administrator, Alaska Region, National Oceanic and Atmospheric Administration to John Goll, Regional Director, MMS, AK OCS Region. Endangered Species Act Section 7 Consultation Biological Opinion
26	2905	06/29/06	Email from Walker, Jeffrey to Monkeliën, Kyle. FW: Questions for MMS: Exploration Plan expectations
27	2907	07/14/06	Email from Cranswick, Deborah to Walker, Jeffrey. RE: Two things on FWS and bird mitigation measures. (email string)
28	2909	07/14/06	Email from Walker, Jeffrey to Childs, Susan. 2007 Exploration Season.
29	2910	08/00/06	Environmental Assessment Proposed OCS Lease Sale 202 Beaufort Sea Planning Area OCS EIS/ES MMS 2006-001
30	3232	09/06/06	Email from Walker, Jeffrey to Childs, Susan. Sale 195 Lease Stipulations.
31	3254	09/13/06	Email from Walker, Jeffrey to Choromanski, Douglas and Monkeliën, Kyle. Shell site clearance survey work.
32	3255	09/14/06	Email from Bohl, Christy to Karen Cougan RE: Correction RE: Model Software for MMS WCD Blowout Scenario (email string)
33	3257	09/18/06	Email from Smith, Caryn to kcougan@slcort.com, cc: Bohl, Christy. FW: modeling question. (email string)
34	3259	09/19/06	Email from Walker, Jeffrey to Childs, Susan. Question.
35	3260	09/19/06	Email from Walker, Jeffrey to Choromanski, Douglas. RE: Shell site clearance and EP questions.
36	3261	09/22/06	Email from Walker, Jeffrey to Goll, John and Wall, Rance. Shell activity.
37	3262	09/27/06	Email from Bohl, Christy to alan@spiltec.com, cc: Childs, Susan and Walker, Jeffrey. Websites
38	3265	10/03/06	Email from Bohl, Christy to sylvia.bellone@shell.com. ADEC Oil Spill Contingency Planning Requirements.
39	3266	10/10/06	Email from Walker, Jeffrey to Bohl, Christy; Choromanski, Douglas; Crumrine, Kathleen; Hartung, Daniel; Hinnah, Dennis; Howell, Randy; Monkeliën, Kyle; Domingo, Shayna. FW: DNR and Shell
40	3267	10/11/06	Email from Walker, Jeffrey to Bohl, Christy. FW: Shell Question on Worst Case Spill Volumes. (email string)
41	3269	10/27/06	Email from Walker, Jeffrey to Bohl, Christy; Choromanski, Douglas; Crumrine, Kathleen; Domingo, Shayna; Hartung, Daniel; Hinnah, Dennis; Howell, Randy; and Monkeliën, Kyle. RE: Drilling Cessation (email string)
42	3270	10/11/06	Email from Walker, Jeffrey to Bohl, Christy; Choromanski, Douglas; Crumrine, Kathleen; Domingo, Shayna; Hartung, Daniel; Hinnah, Dennis; Howell, Randy; and Monkeliën, Kyle. FW: Shell/NSB meeting. (email string)
43	3271	10/30/06	Email from Rotterman, Lisa to Newbury, Thomas; Wilder, James; and Monnett, Charles. RE: Shell's EP.
44	3272	11/03/06	Email from Walker, Jeffrey to Cranswick, Deborah. Request for information on Shell's exploration program.
45	3273	11/09/06	Email from Smith, Caryn to Cranswick, Deborah. Shell Exploration Plan - Discussion of oil spill modeling. (email string)
46	3277	11/14/06	Email from Smith, Caryn to Johnson, Walter. EP's and Post Lease Processing of OSRA Trajectories. (email string)



**SHELL EXPLORATION PLAN ADMINISTRATIVE RECORD****Decision File****Docket 07-71457**

47	3280	11/15/06	Email from Childs, Susan to Walker, Jeffrey. RE: EP/OSCP duration
48	3281	11/17/06	Email from Walker, Jeffrey to Bohl, Christy; Choromanski, Douglas; Crumrine, Kathleen; Domingo, Shayna; Hartung, Daniel; Hinnah, Dennis; Howell, Randy; and Monkellen, Kyle. FW: Shell oil spill contingency plan and well ignition. (email string)
49	3283	11/17/06	Email from Choromanski, Douglas to Walker, Jeffrey; Thurston, Dennis. Shells 2006 Shallow hazards program.
50	3284	11/20/06	Email from Bohl, Christy to Walker, Jeffrey. Review Comments on Shell Offshore Beaufort Sea Regional Exploration ODPSP.
51	3285	11/22/06	Email from Walker, Jeffrey to Goll, John; Cranswick, Deborah; Wall, Rance; and Cacy, Robin. Shell draft Exploration Plan.
52	3525	11/24/06	Email from Cranswick, Deborah to Newbury, Thomas; Smith, Caryn; Burwell, Michael; Schroeder, Mark; and Wilder, James. FW: Shell Proposed Exploration Plan. (email string)
53	3527	11/27/06	Email from Hartung, Daniel to Hinnah, Dennis; Bohl, Christy; Choromanski, Douglas; Monkellen, Kyle; Crumrine, Kathleen; Howell, Randy; Domingo, Shayna FW: Exploration Plan
54	3529	11/28/06	Email from Hinnah, Dennis to Hinnah, Dennis and Howell, Randy. Daylight Hours at 70N145W.
55	3531	11/28/06	Email from Hinnah, Dennis to Hinnah, Dennis RE: Shell Proposed Exploration Plan (email string)
56	3533	11/28/06	Email from Hinnah, Dennis to Hartung, Daniel. RE: Shell Proposed Exploration Plan.
57	3535	11/28/06	Email from Cranswick, Deborah to Walker, Jeffrey. FW: Consultations.
58	3536	11/28/06	Email from Bohl, Christy to Hartung, Daniel. Shell Oil Spill Response Plan review.
59	3539	11/29/06	Email from Cranswick, Deborah to Newbury, Thomas. Bowhead whaling subsistence closures.
60	3540	11/30/06	Email from Hinnah, Dennis to Walker, Jeffrey. Bird Lighting meeting with FWS.
61	3541	11/30/06	Email from Hinnah, Dennis to Hartung, Daniel. Bird lighting comment.
62	3542	12/04/06	Email from Hinnah, Dennis to Hartung, Daniel. Comment on Shell EP.
63	3543	12/04/06	Email from Hinnah, Dennis to Howell, Randy. Floating OCS Facility.
64	3544	12/05/06	Email from Choromanski, Douglas to Thurston, Dennis. Sivulliq site.
65	3545	12/06/06	Email from Wilder, James to Newbury, Thomas. Wilder comments on Shell's EP.
66	3549	12/06/06	Email from Choromanski, Douglas to Walker, Jeffrey. RE: Shallow Hazards.
67	3550	12/06/06	Email from Smith, Caryn to Newbury, Thomas. Shell Comments attached.
68	3553	12/07/06	Email from Burwell, Michael to Newbury, Thomas. Mike EP Comments.
69	3556	12/08/06	Email from Walker, Jeffrey to Hinnah, Dennis. RE: Shell EP Bird Lighting. (email string)

**SHELL EXPLORATION PLAN ADMINISTRATIVE RECORD****Decision File****Docket 07-71457**

Page	Page	Date	Description
70	3558	12/08/06	Email from Childs, Susan to Walker, Jeffrey. FW: Addition of a location in DT block at Sivulliq. (email string)
71	3560	12/11/06	Email from Walker, Jeffrey to Childs, Susan. FW: Data for Shallow Hazards. (email string)
72	3562	12/11/06	Email from Walker, Jeffrey to Cranswick, Deborah. Completeness Review memo
73	3570	12/11/06	Memo from Deborah Cranswick, Acting Regional Supervisor, Leasing and Environment to Jeffrey Walker, Regional Supervisor, Field Operations. Completeness Review of Shell Offshore Inc.'s Exploration Plan dated November 2006.
74	3576	12/11/06	Email from Childs, Susan to Walker, Jeffrey. Re: Stip #7 - birds. (email string)
75	3580	12/11/06	Email from Cranswick, Deborah to Walker, Jeffrey Completeness Review for Shell's EP
76	3588	12/12/06	Email from Hinnah, Dennis to Walker, Jeffrey and Cranswick, Deborah. RE: Stip # 7 - birds (email string)
77	3592	12/12/06	Email from Hartung, Daniel to Walker, Jeffrey. SOI EP Comments.
78	3599	12/13/06	Email from Walker, Jeffrey to Cranswick, Deborah. FW: 2007 Exploration Season.
79	3600	12/13/06	Letter from Jeffrey Walker, Regional Supervisor, Field Operations, MMS AK OCS to Susan Childs, Permits Coordinator Comments on 2007-2009 EP
80	3609	12/14/06	Email from Wilder, James to Cranswick, Deborah. RE: 2007 Exploration Season.
81	3610	12/14/06	Email from Walker, Jeffrey to Childs, Susan. MMS review on the EP, ER and ODPCP.
82	3618	12/14/06	Email from Schroeder, Mark to Swem, Ted; Bennett, Jewel and Conn, Sarah. Shell exploration planning. (email string)
83	3619	12/15/06	Email from Craig Perham to Wilder, James. RE: FW: 2007 Exploration Season. (email string)
84	3622	12/18/06	Letter from Susan Childs, Regulatory Coordinator, Alaska, Shell Exploration & Production Company to James H. Lecky, Director, National Marine Fisheries Service. Request for Approval, Incidental Harassment Authorization for Non-Lethal Taking of Whales and Seals in the Beaufort Sea, Alaska During 2007 Open Water Drilling Program.
85	3625	12/19/06	Email from Hinnah, Dennis to Swem, Ted. Shell's Bird Lighting.
86	3626	12/19/06	Email from Swem, Ted to Hinnah, Dennis. Re: Shell's Bird Lighting.
87	3627	12/21/06	Email from Cranswick, Deborah to Wilder, James. RE: 2007 Exploration Season. (email string)
88	3629	12/21/06	Letter from Jeff Walker, Regional Supervisor, Field Operations, MMS AK OCS to Mayor(s) of Nuiqsut, Barrow, North Slope Borough, Kaktovik, President of NV Barrow, NV Nuiqsut, NV Kaktovik, Inupiat Community of the Arctic Slope and Executive Director, Alaska Eskimo Whaling Commission Providing Advance Notice of Shell Plan to Conduct Exploratory Drilling
89	3631	12/29/06	Email from Walker, Jeffrey to Cranswick, Deborah and Newbury, Thomas. RE: Shell Offshore Inc. Kulluk EP Request for Additional Information. (email string)

**SHELL EXPLORATION PLAN ADMINISTRATIVE RECORD****Decision File****Docket 07-71457**

Page	File	Date	Description
90	3633	01/00/07	Application for Incidental Harassment Authorization for the Non-Lethal Taking of Whales and Seals in Conjunction with a Proposed Open Water Drilling Program in the Beaufort Sea Alaska during 2007
91	3734	01/03/07	Email from Bohl, Christy to Karen Cougan and Jon Edmondson. Comments on Shell ODPSP Rope Mop Efficiency.
92	3735	01/04/07	Email from Susan Childs to Barros, Albert. RE: MMS and ICAS G2G for Shell Exploration Plan.
93	3738	01/08/07	Email from Brad Smith to Wilder, James RE: Shell's IHA Application for their 2007 Open-Water Drilling
94	3739	01/08/07	Email from Susan Childs to Walker, Jeffrey. RE: Oxbow Landfill. (email string)
95	3741	01/08/07	Email from Susan Childs to Barros, Albert and Walker, Jeffrey. RE: MMS and ICAS G2G for Shell Exploration Plan.
96	3743	01/09/07	Email from Crayton, Wayne to Salyer, Michael; Buechler, Casey; Newbury, Thomas; Wilder, James: IHA application
97	3745	01/10/07	Email from Bohl, Christy to Walker, Jeffrey. FW: Emailing: osro.htm.
98	3747	01/10/07	Email from Newbury, Thomas to Cranswick, Deborah and Salyer, Michael. FW: Revised Shell EP.
99	3748	01/10/07 4 Pages	Email from Newbury, Thomas to Wilder, James; Cowles, Cleveland. Shell's monitoring objectives.
100	3753	01/11/07	Email from Newbury, Thomas to Smith, Caryn. FW: 10 yr hindcast on ice conditions.
101	3757	12/21/86	Marine Mammal Monitoring Report: Bowhead Whales and Underwater Noise near a Drill Ship Operation in the Alaskan Beaufort Sea, 1985
102	3918	05/05/92	Site Specific Monitoring Plan Final Report Galahad Exploration Prospect
103	3963	12/15/87	Responses of Bowhead Whales to an Offshore Drilling Operation in the Alaskan Beaufort Sea, Autumn 1986
104	3967	12/15/87	Responses of Bowhead Whales to an Offshore Drilling Operation in the Alaskan Beaufort Sea, Autumn 1986: Integration and Summary Report
105	4023	12/15/87	Responses of Bowhead Whales to an Offshore Drilling Operation in the Alaskan Beaufort Sea, Autumn 1986: Accoustic Studies of Underwater Noise and Localization of Whale Calls
106	4154	12/15/87	Responses of Bowhead Whales to an Offshore Drilling Operation in the Alaskan Beaufort Sea, Autumn 1986: Aerial Surveys of Whale Distribution
107	4227	12/15/87	Responses of Bowhead Whales to an Offshore Drilling Operation in the Alaskan Beaufort Sea, Autumn 1986: Behavioral Studies and Aerial Photogrammetry
108	4358	01/11/07	Email from Newbury, Thomas to Smith, Caryn FW: 10 Year Hindcast on ice conditions (email string)
109	4362	01/11/07	Email from Newbury, Thomas to Burwell, Michael; Schroeder, Mark; Smith, Caryn; Wilder, James; Salyer, Michael. Shell Revised EP.
110	4294	01/11/07	Email from Smith, Caryn to Johnson, Walter. Shell EP and trajectory model report.
111	4395	01/12/07	Letter from Susan Childs to RSFO - Shell Exploration Plan
112	5100	01/12/07	Email from Walker, Jeffrey to Barros, Albert. RE: Talking Point for Mayor Sonsalla RE: Shell Exploration Plan meetings. (email string)

**SHELL EXPLORATION PLAN ADMINISTRATIVE RECORD****Decision File****Docket 07-71457**

LINE	FILE	DATE	DESCRIPTION
113	5102	01/12/07	Email from Choromanski, Douglas to Walker, Jeffrey. RE: Hammerhead data. (email string)
114	5104	01/16/07	Email from Hinnah, Dennis to Susan Childs. Picture of the Kulluk.
115	5106	01/16/07	Email from Newbury, Thomas to Cranswick, Deborah. FW: Shell's monitoring objectives.
116	5114	01/16/07	Email from Susan Childs to Barros, Albert and Mayor, City of Barrow. RE: Meeting with MMS to discuss Shell's Exploration Plan.
117	5116	01/16/07	Email from Smith, Caryn to Cranswick, Deborah. Request for Surface Locations of Shell Wells at Sivulliq: Through Chief EAS, to Regional Supervisor, Field Operations.
118	5117	01/17/07	Email from Thruston, Dennis to Choromanski, Douglas. RE: Shell Meeting.
119	5118	01/17/07	Email from Bohl, Christy to ACS, Planning Manager. RE: VRT question.
120	5122	01/17/07	Email from Buechler, Casey to Environmental Assessment Section. FW: Shell revised IHA application to NMFS for on-ice program. (email string)
121	5149	01/17/07	Letter from Jeff Walker, Regional Supervisor, Field Operations to: (see distribution) Enclosed is a copy of Shell Offshore Inc's proposed Beaufort Sea Outer Continental Shelf Lease Exploration Plan 2007-2009 and associated Oil Discharge Prevention and Contingency Plan.
122	5498	01/18/07	Email from Susan Childs to Barros, Albert. FW: Shell representatives traveling. (email string)
123	5500	01/19/07	Email from Susan Childs to Barros, Albert; Walker, Jeffrey; Goll, John. RE: MMS G2G with NV Kaktovik.
124	5502	01/21/07	Email from Walker, Jeffrey to Meyer, Dan, EPA: FW: G2G for Shell Ancillary Activity.
125	5505	01/22/07	Email from Johnson, Walter to Marshall, Charles.Cc:Smith, Caryn: FW: Arctic location for spill analysis.
126	5507	01/22/07	Email from Monkellen, Kyle to Walker, Jeffrey. RE: Request for Surface Locations of Shell Wells at Sivulliq: Through Chief EAS, to Regional Supervisor, Field Operations. (email string)
127	5508	01/22/07	Email from Monkellen, Kyle to Hinnah, Dennis. RE: Kulluk.
128	5509	01/22/07	Email from Walker, Jeffrey to Susan Childs. FW: Public Notice for the 29th January Meeting in Kaktovik.
129	5511	01/22/07	Email from Susan Childs to Hinnah, Dennis. RE: MMS DPP. (MMS DPP regulations)
130	5513	01/23/07	Email from Wilder, James to Lewandowski, Jill. FW: RE: Shell's updated EP is here and in Tom's office.
131	5516	01/23/07	Email from Smith, Caryn to Cranswick, Deborah; Burwell, Michael; Schroeder, Mark; Wilder, James and Newbury, Thomas. Exploration Plan Lease Numbers and Beaufort Sea Planning Area Oil and Gas Lease Sales 196, 195, and 202 Launch Areas.
132	5518	01/24/07	Email from Walker, Jeffrey to Cranswick, Deborah RE: information still missing from Shell's EP and lease/block discrepancy
133	5519	01/24/07	Email from Walker, Jeffrey to Wilder, James; Goll, John. RE: Copy of Shell's EP to FWS polar bear program.
134	5520	01/24/07	Email from Newbury, Thomas to Cranswick, Deborah. RE: Information still missing from Shell's EP and lease/block discrepancy.



**SHELL EXPLORATION PLAN ADMINISTRATIVE RECORD****Decision File****Docket 07-71457**

135	5521	01/24/07	Email from Cranswick, Deborah to Wilder, James RE: Copy of Shell's EP to FWS Polar Bear Program (email string)
135	5523	01/24/07	Email from Monkellen, Kyle to Smith, Jonathan. RE: Shell Sivulliq Shallow Hazards Data Telecon.
135a	5525	01/25/07	Email from Smith, Caryn to Newbury, Thomas; Cranswick, Deborah; Schroeder, Mark; Wilder, James; Burwell, Michael. RE: Shell EA
137	5533	01/25/07	Email from Walker, Jeffrey to Barros, Albert. FW: Shell 2007 Drilling IHA Application. (email string)
138	5536	01/25/07	Email from Allen, Alan to Smith, Caryn. Running Trajectories for Shell's Beaufort Sea operations.
139	5538	01/25/07	Email from Walker, Jeffrey to Maggie Ahmaogak. RE: Good Neighbor Policy for Shell.
140	5540	01/25/07	Email from Cranswick, Deborah to Newbury, Thomas; Wilder, James; Schroeder, Mark; Salyer, Michael; Buechler, Casey; Smith, Caryn and Burwell, Michael. RE: Shell's EP. Evaluate a three year program for 2007, 2008, 2009.
141	5541	01/26/07	Email from Newbury, Thomas to Wilder, James; Burwell, Michael; Smith, Caryn FW: Shell EP: Polar Bear Issues and NEPA Concerns
142	5542	01/25/07	Email from Walker, Jeffrey to Cranswick, Deborah; Banet, Susan; Bohl, Christy; Choromanski, Douglas; Crumline, Kathleen; Domingo, Shayna; Hartung, Daniel; Hinnah, Dennis; Howell, Randy; Monkellen, Kyle. FW: ACMP Startup - MLUP 06-14 Shell On-Ice Research and Development. (email string)
143	5544	01/25/07	Email from Wilder, James to Lewandowski, Jill. FW: RE: Shell's updated EP is here and in Tom's office.
144	5547	01/26/07	Email from Wilder, James to Cranswick, Deborah. Shell EP: Acoustic info needs.
145	5551	01/26/07	Email from Wilder, James to Lewandowski, Jill. John Goll's Letter/Polar bear ITL.
146	5553	01/26/07	Email from Newbury, Thomas to Wilder, James. 202 descriptions of other marine mammals. IV.B.4.b Polar Bear
147	5556	01/26/07	Email from Newbury, Thomas to Wilder, James. 202 assessments for other marine mammals. IV.C.2.e Polar Bear
148	5565	01/26/07	Email from Barros, Albert to Covalt, Dee; Cacy, Robin; Goll, John; Domingo, Shayna and Walker, Jeffrey. Final itinerary for meetings on Shell EP.
149	5568	01/27/07 2 Pages	Email from Smith, Caryn to Newbury, Thomas; Wilder, James. RE: Shell EA. Oil Spill Risk Analysis probabilities
150	5570	01/27/07	Email from Burwell, Michael to Cranswick, Deborah. FW: Archaeology Question. (email string)
151	5572	01/28/07	Email from Cranswick, Deborah to Buechler, Casey and Burwell, Michael. RE: Archaeology Question. Required archaeological reports
152	5573	01/29/07	Email from Cranswick, Deborah to Burwell, Michael. RE: Archaeology Question. Need clarification re 12 blocks in EP & site clearance for 8 blocks
153	5575	01/29/07	Email from Cranswick, Deborah to Wilder, James RE: Shell EP Polar Issues and NEPA Concerns
154	5577	01/29/07	Email from Smith, Caryn to Newbury, Thomas; Wilder, James; Burwell, Michael. RE: Shell EA and summarized OSRA conditional probabilities.

**SHELL EXPLORATION PLAN ADMINISTRATIVE RECORD****Decision File****Docket 07-71457**

155	5587	01/29/07	Email from Smith, Caryn to Newbury, Thomas. RE: Shell EA and summarized OSRA conditional probabilities.
156	5589	01/30/07	Email from Monkellen, Kyle to OMM AK/FO. FW: Shallow gas management.
157	5591	01/31/07	Email from Smith, Caryn to Newbury, Thomas; Wilder, James; Schroeder, Mark; Burwell, Michael. RE: Shell EA. Low Probability Very Large Spills
158	5596	01/31/07	Email from Smith, Caryn to Newbury, Thomas. RE: Shell EA Added fate and behavior table for 48 bbl diesel fuel spill to Appendix I.
159	5598	01/31/07	Email from Thurston, Dennis to Choromanski, Douglas. SOI EP Review.
160	5604	02/00/07 110 Pages	OCS EIS/EA MMS 2007-009 - Environmental Assessment - Shell Offshore Inc. Beaufort Sea Exploration Plan & Finding of No Significant Impact.
161	5714	02/01/07	Email to Newbury, Thomas I still cannot save to G: Marine and Coastal Birds, Threatened and Endangered Birds
162	5758	02/01/07	Email from Burwell, Michael to Newbury, Thomas Mitigation needed without IHA
163	5761	02/02/07	Email from Smith, Caryn to Wilder, James Updated OSRA Numbers with LS46,47,48 and ANWR attached
164	5772	02/02/07	Email from Buechler, Casey to Anker; Burwell; Cranswick; Crayton; Hay; Newbury; Salyer; Schroeder; Smith; Wilder Summary of Shell EP Issues.
165	5774	03/02/07	Letter to Thomas Olemaun Notification of Conditional approval of Shell's EP & ODPCP
166	5776	03/02/07	Letter to Arnold Brower Jr. Notification of Conditional approval of Shell's EP & ODPCP
167	5777	03/02/07	Letter to Mayor Edward Itta Notification of Conditional approval of Shell's EP & ODPCP
168	5779	03/02/07	Letter to Maggie Ahmaogak Notification of Conditional approval of Shell's EP & ODPCP
169	5781	03/02/07	Letter to Leonard Lampe Sr. Notification of Conditional approval of Shell's EP & ODPCP
170	5783	03/02/07	Letter to Isaac Akootchook Notification of Conditional approval of Shell's EP & ODPCP
171	5785	02/02/07	Email from Schroeder, Mark to Newbury, Thomas. I still cannot Save to G - Essential Fish Habitat and effects on Marine Fish and essential fish habitat.
172	5792	02/01/07	Email from Wilder, James to Newbury, Thomas. Shell EP sections - Attached EA Sections Polar bear; Other Marine Mammals; Effects on Polar Bear; Effects on other Marine Mammals.
173	5813	02/05/07	Email from Newbury, Thomas to Cranswick, Deborah FW: Shell EP Sections
174	5852	02/05/07	Email from Smith, Caryn to Newbury, Thomas and Cranswick, Deborah. RE: Shell EP sections. Proposed wording for OSRA section
175	5854	02/05/07	Email from Walker, Jeffery to Goll, John, Cranswick, Deborah, Cowles, Cleveland, Hartung, Daniel, Barros, Albert G2G Consultations on Shell EP
176	5856	02/06/07	Letter from ICAS to Jeffrey Walker Comments on Shell EP
177	5861	02/06/07	Email from Smith, Caryn to Cranswick, Deborah, Buechler, Casey, Crayton, Wayne, Salyer, Michael, Newbury, Thomas RE: Shell EA
178	5862	02/07/07	Letter to Daniel L. Meyer from Susan Childs RE: Additional Compliance Plan Information

**SHELL EXPLORATION PLAN ADMINISTRATIVE RECORD****Decision File****Docket 07-71457**

Page	Doc ID	Date	Description
179	5868	02/07/07	Email from Monnett, Charles to Lisa Rotterman, Williams, Dee, Gleason, Jeff, Wilder, James, Burwell, Michael FW: Shell EP EA Review
180	5874	02/07/07	Email from Cranswick to Cowles, Cleveland For your Follow-up and our discussion FW: EP EA Review
181	5880	02/07/07	Email From Don Perrin to Walker, Jeffrey Shell Exp Plan ACMP and C-Plan Review
182	5882	02/08/07	Letter to John Goll from Sarah Palin, Governor of Alaska Thanks for opportunity to review plan
183	5883	02/08/07	Email from Bohl, Christy to Walker, Jeffrey , Hartung, Daniel Comments on Shell ODPCP
184	5886	02/09/07	Email from Schroeder, Mark to Newbury, Thomas. Revised fish sections.
185	5895	02/09/07	Email from Cranswick, Deborah to Schroeder, Mark; Burwell, Michael and Newbury, Thomas.  EA for Shell's EP.
186	5896	02/09/07	Email from Geoffrey S. York to Newbury, Thomas and Crayton, Wayne. Re: Fw: Assessment.
187	5900	02/09/07	Email from Tony DeGange/BRD/USGS to Newbury, Thomas FW: Assessment
188	5941	02/09/07	Email from Cranwick, Deborah to Newbury, Thomas. EA. Appendix and new information that needs to be summarized
189	5942	02/09/07	Email from Schroeder, Mark to Newbury, Thomas. Trimmed Marine and Coastal Birds.
190	5946	02/09/07	Email from Cranswick, Deborah to Newbury, Thomas. RE: Fw: Assessment.
191	5948	02/09/07	Email from Cranswick, Deborah to Newbury, Thomas my review first part (review of draft EA section)
192	5955	02/09/07	Email from Cranswick, Deborah to Newbury, Thomas part two (review of draft EA section)
193	5977	02/09/07	Email from Burwell, Michael to Barros, Albert. RE: G2G Notes re: Shell EP.
194	5984	02/09/07	Email from Newbury, Thomas to Cranswick, Deborah; Crayton, Wayne and Benson, Carl. FW: Fw: Assessment.
195	5985	02/10/07	Email from Cranswick, Deborah to Newbury, Thomas. FW: Comments on Shell's Exploraiton Plan from NSB
196	5993	02/12/07	Email from Bohl, Christy to Walker, Jeffrey. RE: Shell OSCP/EA (paragraph on how Shell OSCP addresses polar bears in bone pile concentration areas)
197	6007	02/12/07	Conversation Record between Mark Schroeder and Matt Eagleton (NMFS) on Essential Fish Habitat (EHF) Consultation on Shell EP.
198	6008	02/12/07	Email from Schroeder, Mark to Cranswick, Deborah. RE: FYI on EFH.
199	6009	02/12/07	Email from Cranswick, Deborah to Newbury, Thomas. New cumulative analysis for Shell's EP.
200	6012	02/12/07	Email from Cranswick, Deborah to Newbury, Thomas. AQ.
201	6014	02/14/07	Email from Bohl, Christy to Walker, Jeffrey. Spill Plan write up.
202	6018	02/14/07	Email from Bohl, Christy to Edmondson, Jon. AES Manual. (comments on manual)
203	6019	02/15/07	Email from Newbury, Thomas to Hartung, Daniel. RE: Shell EA

**SHELL EXPLORATION PLAN ADMINISTRATIVE RECORD****Decision File****Docket 07-71457**

NO.	Page	Date	Description
204	6022	02/15/07	Email from Bohl, Christy to Walker, Jeffrey. Plan Review Documentation.
205	6027	02/15/07	Memorandum To Regional Supervisor, Field Operations From Regional Supervisor, Leasing and Environment re National Environmental Policy Act NEPA Review of Shell Offshore Inc.'s Exploration Plan
206	6031	02/00/07	Environmental Assessment Shell Offshore Inc., Beaufort Sea Exploration Plan OCS EIS/EA MMS 2007-009
207	6141	02/15/07	Letter from Jeff Walker, Regional Supervisor, Field Operations to Susan Childs, Shell Offshore Inc Approval of Exploration Plan.
208	6145	02/15/07	Letter from Jeff Walker, Regional Supervisor, Field Operations to Susan Childs, Shell Offshore Inc Approval of Oil Discharge Prevention and Contingency Plan.
209	6148	01/00/07	Response Tactics Manual
210	6169	01/16/07	Letter from Susan Childs to Don Perrin ACMP Consistency Review
211	6239	01/24/07	Letter from Susan Childs to National Marine Fisheries Service, James H. Lecky. Request for Approval IHA for Non-Lethal Taking of Whales and Seals in the Beaufort Sea Alaska during 2007 Open Water Drilling Program
212	6300	01/00/07	Draft Marine Mammal Monitoring and Mitigation Plan
213	6342	09/00/02	Oil Spill Risk Analysis - Beaufort Sea Planning Area Sales 186, 195 and 202 OCS Report MMS 2002-058
214	6480	00/00/02	Alternative Oil Spill Occurrence Estimators of the Beaufort And Chukchi Seas -Fault Tree Method - OCS Study MMS 2002-047
215	6481	00/00/05	Alternative Oil Spill Occurrence Estimators and their Variability for the Beaufort Sea-Fault Tree Method



**SHELL EXPLORATION PLAN ADMINISTRATIVE RECORD****Implementation File****Docket 07-71457**

1	I-1	No Date	Attachment A: Adaptive Management Plan for the Beaufort Sea
2	I-3	02/22/07	Email from Greg Horner to Sandy Sears FW: NOI in FR for drilling and open water seismic IHAs (email string)
3	I-5	02/22/07	Email from Greg Horner to Sears, Sandy; Heath, Tupaaq FW: NOI in FR for drilling and open water seismic IHAs
4	I-6	No Date	Note: To Ken from Susan Childs - Timeline for posting IHAs to FR
5	I-7	03/27/07	Letter to Mike Lidgard EPA from Susan Childs Notice of Intent NPDES General Permit AKG28-0000 - Kulluk
6	I-19	03/27/07	Letter to Mike Lidgard EPA from Susan Childs Notice of Intent NPDES General Permit AKG28-0000 - Frontier Discoverer
7	I-30	03/30/07	Letter to Ted Swem from Susan Childs Bird Strike Avoidance and Lighting Plan
8	I-124	03/28/07	Email from Pavia, Gene EPA to Heath, Tupaaq Shell Kulluk, Frontier Discoverer Minor NSR Permit Applications
9	I-125	02/02/07	Letter to Susan Childs from Richard Albright Shell Kulluk and Frontier Discoverer Minor NSR Permit Applications Completeness Determination
10	I-126	04/18/07	Letter to Susan Childs from Jeff Walker MMS Approval of Beaufort Sea EP
11	I-127	04/12/07	Letter to Isaac Nukapigak, Thomas Napageak, Archie Ahkiviana, Carl Brower, Herbert Ipalook, Ruth Nukapigak, Billy Oyagak, Nuiqsut Whaling Captains Assoc. RE: Mitigation Measures Applicable to Shell Offshore Inc.'s 2007 Exploratory Drilling, Site Clearance and Seismic Exploration Activities in the Beaufort Sea
12	I-134	04/20/07	Letter to Jeff Walker from Susan Childs Status of Conflict Avoidance Agreements
13	I-136	04/25/07	Letter to Secretary Kempthorne from Michael LeVine Request for Stay Shell Exploration
14	I-153	04/30/07	Letter to Michael LeVine from John Goll RE: April 25th 2007 Administrative Stay Request
15	I-155	05/11/07	Letter to Harry K. Brower Jr. from Jeff Walker Terms for Conflict Avoidance
16	I-157	05/11/07	Letter to Susan Childs from Jeff Walker Terms for Conflict Avoidance
17	159	05/11/07	Letter to Billy Oyagak from Jeff Walker Terms for Conflict Avoidance
18	I-161	05/11/07	Letter to Edward Itta from Jeff Walker Terms for Conflict Avoidance
19	I-163	05/11/07	Letter to Ken Hollingshead from Jeff Walker Terms for Conflict Avoidance
20	I-165	05/11/07	Letter to Fenton Rexford from Jeff Walker Terms for Conflict Avoidance
21	I-167	05/14/07	Letter to Johnny Aiken from Ed Fogels OPMP Response to NSB Letter Requesting Designation of Natural Hazard & Subsistence - Use Areas
22	I-173	05/17/07	Letter to Dirk Kempthorne from Chandler T. Wilhelm RE: Earthjustice Request for Stay
23	I-175	05/21/07	Email from Walker, Jeffrey to Childs, Susan NSB Responses to the Letter of Invitation
24	I-176	05/23/07	Email from Walker, Jeffrey to Goll, John; Childs, Susan; Ryan, R.; Hollingshead, Ken; Smith, Brad Stip 5 Meeting